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SENATE BILL 9

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; DISTRIBUTING A PORTION OF THE CORPORATE
INCOME TAX REVENUE TO THE PUBLIC SCHOOL FUND; AMENDING THE
CORPORATE INCOME AND FRANCHISE TAX ACT; REQUIRING COMBINED
REPORTING FOR CERTAIN UNITARY CORPORATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is
enacted to read:

"~~[NEW MATERIAL]~~ DISTRIBUTION--PUBLIC SCHOOL FUND.--A
distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
made to the public school fund in an amount equal to twenty-
five percent of the net receipts attributable to the corporate
income tax for taxable years beginning on or after January 1,
2011."

Section 2. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
.182298.1

underscoring material = new
[bracketed material] = delete

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1 Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
2 Section 4 and also by Laws 1993, Chapter 309, Section 2) is
3 amended to read:

4 "7-2A-8.3. COMBINED RETURNS.--

5 A. A unitary corporation that is subject to
6 taxation under the Corporate Income and Franchise Tax Act and
7 that has not previously filed [~~a combined return pursuant to~~
8 ~~this section or~~] a consolidated return pursuant to Section
9 7-2A-8.4 NMSA 1978 may elect to file a combined return with
10 other unitary corporations as though the entire combined net
11 income were that of one corporation. The return filed under
12 this method of reporting shall include the net income of all
13 the unitary corporations. Transactions among the unitary
14 corporations may be eliminated by applying the appropriate
15 rules for reporting income for a consolidated federal income
16 tax return. Any corporation that has filed an income tax
17 return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978
18 shall not file pursuant to this section unless the secretary
19 gives prior permission to file on a combined return basis.

20 B. Once corporations have reported net income
21 through a combined return for any taxable year, they shall file
22 combined returns for subsequent taxable years, so long as they
23 remain unitary corporations, unless the corporations elect to
24 file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the
25 secretary grants prior permission for one or more of the

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underscored material = new
[bracketed material] = delete

1 corporations to file individually.

2 ~~[G. For taxable years beginning on or after January~~
3 ~~1, 1993, no unitary corporation once included in a combined~~
4 ~~return may elect, or be granted permission by the secretary,~~
5 ~~for any subsequent taxable year to separately account pursuant~~
6 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]~~

7 C. A unitary corporation whose principal business
8 activity is manufacturing and that has not previously filed a
9 combined or consolidated New Mexico corporate income tax return
10 may elect to file a corporate income tax return as a separate
11 corporate entity. For the purposes of this subsection,
12 "manufacturing" means combining or processing components or
13 materials to increase their value for sale in the ordinary
14 course of business, but does not include:

15 (1) construction;

16 (2) farming;

17 (3) power generation, except for electricity
18 generation at a facility other than one for which both location
19 approval and a certificate of convenience and necessity are
20 required prior to commencing construction or operation of the
21 facility, pursuant to the Public Utility Act; or

22 (4) processing natural resources, including
23 hydrocarbons."

24 Section 3. APPLICABILITY.--The provisions of this act
25 apply to taxable years beginning on or after January 1, 2011.

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